

FUNDAMENTAL INTERNATIONAL TAX REFORM FOR AMERICANS ABROAD

By Paula N. Singer, Esq.¹

The objectives of fundamental tax reform are frequently discussed in the context of tax reform for US corporations and businesses. These objectives generally include jobs, revenue, competitiveness, fairness, anti-abuse and simplification. Rarely, if ever, is fundamental international tax reform discussed in the context of individual tax reform even though many businesses are taxed at the individual level rather than the entity level because the taxpayer is a sole proprietor or an owner of a flow-through entity such as a partnership. Tax reform discussions about individual tax reform always assume that all tax reform measures impact only individuals who reside in the United States. Yet, there are an estimated 7 to 9 million U.S. citizens who reside abroad who are also impacted by individual tax reform proposals. A more precise count of U.S. citizens who reside abroad is not possible because the U.S. Census Bureau admits that they are not able as a practical matter to count U.S. citizens who reside abroad. There are also an uncounted number of U.S. lawful permanent residents (called “green card holders”) who reside abroad as well.

U.S. citizens and green card holders who reside abroad (referred to hereafter as “Americans abroad”) are subject to the same income tax laws as U.S. citizens and green card holders who reside in the United States because the United States imposes its income tax based on status (called “citizenship-based taxation”). (Section 7701(b) of the Internal Revenue Code imposes U.S. taxation based on green card status.) Most countries including all other industrialized countries impose income tax on individuals based on their residence in the country as defined by the country’s tax laws (called residence-based taxation). As a result, Americans abroad are subject to double worldwide taxation because the United States imposes its income tax based on status while their country of residence taxes them based on residence. To comply with their U.S. tax obligations they must resort to complex tax law mechanisms – foreign earned income exclusions and foreign tax credits – and seek tax return filing assistance from experienced tax return preparers who tend to be costly. Free support from the IRS which is available for domestic taxpayers is generally lacking. The IRS provides only one non-toll free telephone number and IRS tax attaches in only four locations – London, Paris, Frankfurt, and Beijing - for these millions of taxpayers. (When there were only about 3 million US taxpayers abroad in the 1980s, the IRS staffed 16 offices around the world to provide tax assistance to for these taxpayers.)

The reality is that taxation based on status is an anachronism in a global economy that unnecessarily limits the economic opportunities of U.S. businesses as well as Americans abroad. It is not a “level playing field” when other countries can send their citizens abroad to encourage business without incurring the additional tax reimbursements costs that are typically paid for Americans transferred abroad by their employers. Major multinational companies (MMCs) do not have the same problem as U.S. based companies seeking to expand internationally because MMCs can draw their employees from a global employee pool, thus limiting the opportunities in these companies for their employees who are Americans abroad.

American Citizens Abroad (ACA) has prepared and presented a proposal to Congress for transitioning to residence-based taxation (RBT). The proposed RBT solves the problems encountered by Americans abroad and U.S. businesses in a way that will both increase tax revenue and decrease tax administrative costs. I urge you to read and seriously consider this proposal as you work on fundamental international

¹ A partner with the tax law firm, Vacovec, Mayotte & Singer, LLP and Practice Leader with Thomson Reuters

tax reform. The ACA has presented their proposal to the International Tax Reform Working Group. It is also available at americansabroad.org.